

**IN THE UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION AT AKRON**

<b>IN RE:</b>	)	<b>CASE NO. 14-52106</b>
	)	
<b>GARY MASUCCI</b>	)	<b>ADVERSARY NO. 15-_____</b>
	)	
<b>Debtor</b>	)	<b>IN PROCEEDINGS UNDER CHAPTER 7</b>
	)	
<b>HAROLD A. CORZIN, TRUSTEE</b>	)	<b>JUDGE ALAN M. KOSCHIK</b>
<b>Commonwealth Square</b>	)	
<b>304 N. Cleveland-Massillon Road</b>	)	
<b>Akron, OH 44333</b>	)	
	)	
<b>Plaintiff</b>	)	
	)	
<b>vs.</b>	)	<b>COMPLAINT</b>
	)	
<b>MARGARET MASUCCI</b>	)	
<b>4260 Leewood Road</b>	)	
<b>Stow, OH 44224</b>	)	
	)	
<b>and</b>	)	
	)	
<b>DON JOSEPH, INC.</b>	)	
<b>Attn: Officer, Managing, or General Agent</b>	)	
<b>1111 W. Main Street</b>	)	
<b>Kent, OH 44240</b>	)	
	)	
<b>Defendants</b>	)	<b>TYPE: TRANSFER AVOIDANCE</b>

Now comes Harold A. Corzin, Trustee, the plaintiff herein, by and through his attorney, and, for his causes of action against the defendants, states as follows:

**I - JURISDICTION AND PARTIES**

1. This court has jurisdiction over the within adversary proceeding pursuant to 28 USC § 1334 and 28 USC § 157 and the claims set forth herein are core proceedings within the meaning of the United States Bankruptcy Code.

2. The plaintiff, Harold A. Corzin, Trustee, is the duly appointed, qualified, and acting trustee for the debtor, Gary Masucci, who commenced his petition seeking relief under Chapter 7 of the United States Bankruptcy Code on the 12<sup>th</sup> day of August, 2014.

3. The defendant, Margaret Masucci, is an individual, a resident of Stow, Ohio, and the spouse of the debtor, Gary Masucci.

4. The defendant, Don Joseph, Inc., is a corporation organized and existing under the laws of the State of Ohio.

## **II - FIRST CLAIM FOR RELIEF**

5. That the debtor, Gary Masucci, on or about the 5<sup>th</sup> day of July, 2014, voluntarily transferred a 2008 Jeep Commander having a value of approximately \$10,000 to the defendant, Don Joseph, Inc.

6. Such transfer occurred within two years before the date of the filing of the petition and, in fact, was made slightly in excess of one month before the filing of the petition.

7. That the debtor received less than a reasonably equivalent value in exchange for such transfer.

8. The debtor was insolvent on the date of such transfer or became insolvent as a result of such transfer.

9. That the defendant, Don Joseph, Inc., was the initial transferee of such transfer and the trustee may recover, for the benefit of the estate, the property transferred or the value of such property.

## **III - SECOND CLAIM FOR RELIEF**

10. That the defendant, Margaret Masucci, entered into a contract to purchase a 2014 Toyota 4Runner from the defendant, Don Joseph, Inc. A true and accurate copy of the buyer's order form is attached hereto, labeled Exhibit A, and incorporated herein by reference as if rewritten in full on the 5<sup>th</sup> day of July, 2014.

11. That the 2008 Jeep Commander, property of the debtor, was used as a trade in and the defendant, Margaret Masucci, was given a trade in allowance of \$7,500 against her purchase price for the 2014 Toyota 4Runner.

12. The debtor, Gary Masucci, transferred the title to Don Joseph, Inc. without receiving reasonably equivalent value in exchange therefore and the debtor was insolvent or became insolvent as a result of such transfer.

13. The defendant, Margaret Masucci, was the individual or entity for whose benefit such transfer was made.

14. The trustee may recover, for the benefit of the estate, the property transferred or its value from said defendant.

WHEREFORE, plaintiff prays judgment against the defendants, Don Joseph, Inc. and Margaret Masucci; for and order transferring the 2008 Jeep Commander to the estate or its value of \$10,000 against the said defendants, jointly and severally; for his costs herein incurred, and for such other and further relief as is just and proper.

GIBSON & LOWRY

/s/ Michael J. Moran

Michael J. Moran (#0018869)

Attorney for Harold A. Corzin, Trustee

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(330) 929-6605 - Fax

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PURCHASER MARGARET MASUCCI  
 ADDRESS 4260 LEEWOOD RD  
 CITY STOW STATE OH ZIP 44224  
 RES. PHONE ( ) (330) 814-1943  
 BUS. PHONE ( ) STOWGAL@HOTMAIL.COM HOME 07/05/2014  
 E-MAIL DATE  
 MOBILE NO. ( )

# BUYERS ORDER



1111 West Main St. Kent, Ohio 44240  
 KENT-AKRON 330-673-2200 TOLL FREE 1-800-714-6635  
 FAX 330-673-0123

www.djtoyota.com

www.djscion.com

DEAL NO. 51135 CUSTOMER NO. 85758

MILEAGE ON PURCHASED VEHICLE: 3  
 Accurate Unless Marked Not Accurate ☐ NOT ACCURATE

PLEASE ENTER MY ORDER FOR THE FOLLOWING DESCRIBED  
 MOTOR VEHICLE: ☐ NEW ☐ USED ☐ DEMO ☐ RENTAL ☐ FACTORY OFFICIAL

VEHICLE SOLD:	MAKE	YEAR	MODEL	BODY TYPE	COLOR	TRIM	STK. NO.	SERIAL NO.
TOYOTA		2014	4 RUNNER	WG	BLACK		N792K	JTEBU5JR8E5179188

<b>TRADE IN RECORD - TRADE 1</b>	
YEAR <u>2008</u> MAKE <u>JEEP</u> MODEL <u>COMMANDER</u> TYPE <u>MP</u>	
VIN # <u>1J8HG48K38C109938</u> STK # <u>5N792K</u>	
MILEAGE: (Accurate Unless Marked Not Accurate) <input type="checkbox"/> Not Accurate <u>31,113</u> Salvage Vehicle? <input type="checkbox"/> Yes	
BALANCE OWED \$ <u>N/A</u> (Good Until <u>          </u> ) Trade-in Allowance <u>7500.00</u>	
<b>TRADE IN RECORD - TRADE 2</b>	
YEAR <u>          </u> MAKE <u>          </u> MODEL <u>          </u> TYPE <u>          </u>	
VIN # <u>          </u>	
MILEAGE: (Accurate Unless Marked Not Accurate) <input type="checkbox"/> Not Accurate <u>          </u> Salvage Vehicle? <input type="checkbox"/> Yes	
BALANCE OWED \$ <u>          </u> (Good Until <u>          </u> ) Trade-in Allowance <u>          </u>	
<b>REMARKS:</b>	
<b>DEPOSIT (PARTIAL PAYMENT) RECEIPT</b> - Purchaser hereby provides to the Dealer the sum of \$ <u>N/A</u> as Non-Refundable Deposit/Partial Payment for the vehicle described above. If this Receipt is for a Deposit, Dealer will refrain from selling the described vehicle for <u>14</u> days from the date of Deposit. <u>X</u>	
<b>NEGATIVE EQUITY DISCLOSURE &amp; CONSENT</b> - I am aware that the balance owed on my trade-in vehicle or the amount owed on my lease turn in vehicle exceeds the trade-in allowance from the dealer. As a result, I have requested that the "Total Due" be increased by the difference, \$ <u>          </u> (known as negative equity). <u>X</u>	
<b>ARBITRATION</b> - I agree that any dispute arising from this transaction will go to arbitration and I have executed a detailed arbitration agreement which is fully incorporated herein. Arbitration is not required for the purchase or financing of your vehicle. <u>X</u>	

PRICE OF VEHICLE	\$	34750.00
OTHER GOODS & SERVICES		N/A
		N/A
		N/A
		N/A
		N/A
		N/A
		N/A
		N/A
		N/A
SERVICE CONTRACT		1850.00
		N/A
		N/A
DOCUMENTARY SERVICE FEE		250.00
TOTAL PRICE		36890.00
TRADE-IN ALLOWANCE(S)		( 7500.00 )
		N/A
TAX BASE		29390.00
SALES TAX <u>5.7500</u> %		1983.85
TITLE FEE		15.00
REGISTRATION FEE		18.50
PLUS PAYOFF ON TRADE VEHICLE(S)		N/A
TOTAL DUE		31407.35
LESS INITIAL PAYMENT CASH DOWN	\$	2145.73
		500.00
LESS REBATE/FACTORY INCENTIVE		
LESS REBATE/FACTORY INCENTIVE		N/A
		N/A
BALANCE DUE	\$	28761.60

ALL WARRANTIES, IF ANY, BY A MANUFACTURER OR SUPPLIER OTHER THAN DEALER ARE THEIRS, NOT DEALERS, AND ONLY SUCH MANUFACTURER OR OTHER SUPPLIER SHALL BE LIABLE FOR PERFORMANCE UNDER SUCH WARRANTIES. UNLESS DEALER FURNISHES PURCHASER WITH A SEPARATE WRITTEN WARRANTY OR SERVICE CONTRACT MADE BY DEALER ON ITS OWN BEHALF, DEALER HEREBY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE IN CONNECTION WITH THE VEHICLE AND ANY RELATED PRODUCTS AND SERVICES SOLD BY DEALER. DEALER NEITHER ASSUMES NOR AUTHORIZES ANY OTHER PERSON TO ASSUME FOR IT ANY LIABILITY IN CONNECTION WITH THE SALE OF THE VEHICLE AND THE RELATED PRODUCTS AND SERVICES. IN THE EVENT THAT A WRITTEN WARRANTY IS PROVIDED BY DEALER OR A SERVICE CONTRACT IS SOLD BY DEALER ON ITS OWN BEHALF, ANY IMPLIED WARRANTIES ARE LIMITED IN DURATION TO THE TERM OF THE WRITTEN WARRANTY/SERVICE CONTRACT.

CONTRACTUAL DISCLOSURE STATEMENT (USED VEHICLES ONLY) THE INFORMATION YOU SEE ON THE WINDOW FORM FOR THIS VEHICLE IS PART OF THIS CONTRACT. INFORMATION ON THE WINDOW FORM OVERRIDES ANY CONTRARY PROVISIONS IN THE CONTRACT OF SALE. GUÍA PARA COMPRADORES DE VEHÍCULOS USADOS. LA INFORMACIÓN QUE APARECE EN LA VENTANILLA DE ESTE VEHÍCULO FORMA PARTE DE ESTE CONTRATO. LA INFORMACIÓN CONTENIDA EN EL FORMULARIO DE LA VENTANILLA ANULA CUALQUIER PREVISIÓN QUE ESTABLEZCA LO CONTRARIO Y QUE APAREZCA EN EL CONTRATO DE VENTA.

If the purchase of the motor vehicle described herein is to be financed this agreement is subject to credit approval and assignment of a retail installment sales contract to a financial institution, and the Annual Percentage Rate (APR) may be negotiated with dealer and dealer may receive compensation for arranging financing on customer's behalf.

These documents are fully incorporated herein (where applicable): Conditional/Spot Delivery Agreement, We Owe/Delivery Report, Used Vehicle Limited Warranty and Retail Installment Sales Contract. NO ORAL REPRESENTATIONS HAVE BEEN MADE TO THE PURCHASER and all terms of the agreement are contained on the front and back of this agreement and any documents incorporated herein. I have read the terms and conditions of this Agreement, both on front and back, and agree to them. I certify that I am at least 18 years old, and acknowledge receipt of a copy of this agreement.

I UNDERSTAND THAT THIS RETAIL BUYERS ORDER IS NOT BINDING UNLESS ACCEPTED BY DEALER OR HIS AUTHORIZED AGENT.

This motor vehicle contract is executed this 5th day of JULY 2014

PURCHASER(S) Margaret M Masucci

SALESPERSON Eric Eule

ACCEPTED BY AUTHORIZED AGENT           

EXHIBIT

A